

REMARKS

The applicants note with appreciation the acknowledgement of the claim for priority under section 119 and the notice that all of the certified copies of the priority documents have been received.

The applicants acknowledge and appreciate receiving an initialed copy of the forms PTO-1449 that were filed on February 11, 2004 and April 14, 2005.

Claims 19, 21 – 23, 26 – 32, 34 – 35, and 38 – 39 are pending. Claims 20, 24, 25, 33, 36 and 37 have been canceled. Claims 22, 26 – 31 and 35 have been withdrawn. The applicants respectfully request reconsideration and allowance of this application in view of the above amendments and the following remarks.

Claims 21 and 34 were objected to for use of the designation “hook-like.” The office action suggested replacing “hook-like” with “hook,” which does not seem to be grammatically correct. Accordingly, the phrase “the fixing member is hook-like” in claims 21 and 34 has been amended to “the fixing member is hook-shaped.” Support for the amendment is located in the specification, for example, FIG. 40, element 325. Element 325 is further described in the specification, for example, at paragraph [0270]. Withdrawal of the objection is respectfully requested.

Claims 19 – 21, 23 – 25, 32 – 34 and 36 – 39 were rejected under 35 USC 112, first paragraph, as containing subject matter which was inadequately described in the specification. The applicants respectfully request that this rejection be withdrawn for the following reasons.

The office action states that the specification does not disclose “fasteners” in claims 1 and 32 (presumably claims 19 and 32), and has assumed that “retaining holes” were intended instead of “fasteners.” To the contrary, the specification discloses “fasteners” as recited.

The examiner's attention is drawn for example to element 317 in FIG. 39. In addition, paragraph [0263] states "... On the outer peripheral faces of wall portions 316a and 316b, which are vertically opposite to each other, there are fixed a plurality of hooks 317, or fasteners, each of which roughly has a C-shape. ...". Paragraph [0268] states "... The upper and lower side wall portions 327 and 328 are provided with retaining holes 327a and 328a, respectively, for retaining the retaining hook portions 317a of the hooks 317 on the peripheral wall portion."

The specification has figures including illustrations of the element, and describes in detail the element (referred to in the amended specification as a "fastener"), as well as portions comprising the element and the element's relation to other elements. Therefore, the examiner is respectfully requested to withdraw the rejection under 35 USC 112, first paragraph.

Claims 19 – 21, 23 – 25, 32 – 34 and 36 – 39 were rejected under 35 USC 103(a) as being unpatentable over U.S. Patent No. 5,887,891, Taquchi et al. ("Taquchi") in view of U.S. Patent No. 6,092,836, Saslekov ("Saslekov"). The rejection is respectfully traversed for reasons including the following, which are provided by way of example.

Independent claim 19 has been amended to include claims 20, 24 and 25; independent claim 32 has been amended to include claims 33, 36 and 37. Support for amended wording in claims 19 and 32 is located, for example, in FIG. 38 – FIG. 41 and FIG. 45, such as, for example, elements 315, 315a, 317, 324, 325, 331 and 334.

Independent claim 19 recites in combination, for example, "the case has an opening ... the opening opens in a rectangular shape arranged in a longitudinal direction along the left-right direction;" "a door, wherein the door covers the opening of the case, the door opening along the upper-lower direction;" "a general portion, which is located around the door;" "a breakaway portion arranged around the door, the breakaway portion being broken to open the door when the

airbag is expanded;" "fasteners being arranged on the upper and lower peripheries of the opening along the left-right direction;" "fixing members being located near an outer edge of the general portion, the fixing members being arranged on the left-right direction end side of the general portion."

Thereby, in operation, when the airbag is expanded, the expanding airbag pushes the door rearward, then the breakaway portion is broken to open the door. When the door begins to be pushed, the portions near the upper and lower portions of the breakaway portion can be expanded along the upper-lower direction by the rearward pushing force to the door, so that the door opens when the breakaway portion is broken. Because of the arrangement of the fixing members with respect to the fasteners, the door and the breakaway portion, the general portion can be affixed to the panel by the fixing members.

On the other hand, without conceding that Taquchi discloses any feature of the present invention, according to Taquchi, the fasteners (30) are arranged on the width direction side peripheries of the opening of the case (20), and the fixing members (10d) are also arranged on the width direction end side of the airbag cover (10) along the longitudinal direction. Therefore, the fixing members (10d) are arranged near the fasteners (30) in the width direction. Also, the door (10a) opens along the width direction, the fixing members (10d) being arranged on the opening direction side of the door (10a). In Taquchi's operation, when the upper and lower portions of the breakaway portion (10e) are expanded along the width direction, the fixing members (10d) are pulsed along the width direction together with the upper and lower near portions of the breakaway portion (10e), because the fixing members (10d) are arranged on the opening direction side of the door (10a). Therefore, in Taquchi, when the door (10a) begins to be pushed, the fixing members (10d) are affected by the expansion of the portions near the upper and lower portions of the breakaway portion (10e). Then, if Taquchi's fixing members are fixed

to the panel (100), when the door (10a) opens, the airbag cover (10) cannot be fixed securely to the panel (100) by the fixing members (10d).

To properly reject a claimed invention, the examiner must establish a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness with respect to a claimed invention, all the claim limitations must be taught or suggested by the prior art reference (or references when combined). *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Moreover, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Furthermore, the teaching or suggestion to make the claimed combination and a reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). The examiner bears the burden of establishing this *prima facie* case. *In re Deuel*, 34 U.S.P.Q.2d 1210, 1214 (Fed. Cir. 1995). If the examination at the initial stage does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of patent. *In re Oetiker*, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992).

The applicants provided above selected examples of limitations in the claims which are neither taught nor suggested by Taquchi. The office action admits that "Taquchi et al does not directly disclose the airbag for protecting the knee of occupant" as recited. Recognizing that Taquchi fails to teach and/or suggest the invention as claimed, Saslecov is cited to remedy the deficiencies.

Nevertheless, Saslecov fails to remedy such deficiencies. Saslecov discloses an airbag device for knee protection. However, Saslecov fails to teach or suggest limitations in the claims the claimed invention, as discussed above. Therefore, Taquchi and Saslecov, alone or in

combination, fail to teach or suggest the combination of features recited in independent claim 1, when considered as a whole.

Furthermore, because the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 813, 123 USPQ 349, 352 (CCPA 1959) ("the suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate"). Because the proposed combination appears to change the principle of operation of Taquchi and/or Saslecov, as discussed previously in detail, the proposed combination fails to teach or suggest the recited invention.

With respect to the rejected dependent claims, applicant respectfully submits that these claims are allowable not only by virtue of their dependency from independent claims 19 and 32, but also because of additional features they recite in combination.

Applicants respectfully submit that, as described above, the cited prior art does not show or suggest the combination of features recited in the claims. Applicants do not concede that the cited prior art shows any of the elements recited in the claims. However, applicants have provided specific examples of elements in the claims that are clearly not present in the cited prior art.

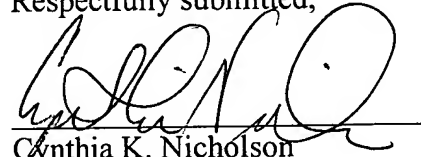
Applicants strongly emphasize that one reviewing the prosecution history should not interpret any of the examples applicants have described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, for the sake of

simplicity, applicants have provided examples of why the claims described above are distinguishable over the cited prior art.

In view of the foregoing, the applicants respectfully submit that this application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

Please charge any unforeseen fees that may be due to Deposit Account No. 50-1147.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C. Nicholson', written over a horizontal line.

Cynthia K. Nicholson

Reg. No. 36,880

Posz Law Group, PLC
12040 South Lakes Drive, Suite 101
Reston, VA 20191
Phone 703-707-9110
Fax 703-707-9112
Customer No. 23400